

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RICHARD ALLEN MASTERSON,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. H-09-2731

ORDER

Through appointed counsel, Richard Allen Masterson has filed a Motion for Appointment of Neuro-Psychologist and Authorization to Expend Funds for Examination and Brain Scan. (Docket Entry No. 47). Counsel for Masterson expresses “a good faith belief that there are issues of mental disease and defect in this case[.]” (Docket Entry No. 47 at 1). Masterson’s motion states: “undersigned council believes he has a duty to ask for appointment for a neuro-psychologist and for that psychologist to be permitted to examine Mr. Masterson at the Polunsky Unit. He also believes that an imaging of Mr. Masterson’s brain would be a useful diagnostic tool[.]” (Docket Entry No. 47 at 2).

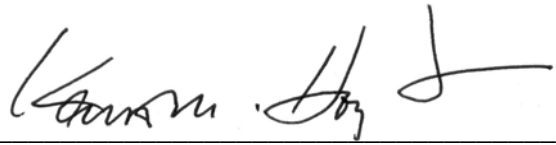
Masterson’s most recent pleadings come before the Court in the context of his earlier *pro se* pleadings, including the motion to dismiss his federal habeas case which he eventually withdrew. He has also repeatedly filed motions to substitute his federal counsel. Most recently, Masterson has filed a *pro se* motion threatening to dismiss his federal habeas action should the Court deny him funds for a brain scan. (Docket Entry No. 46).

Masterson’s repeated *pro se* filings, the representations of his attorney, and this Court’s interaction with him during the earlier telephone conference raise a genuine concern about his mental state. The Court finds that a neurological examination would help discern whether

Masterson suffers from a mental disease or defect that may prevent him from understanding his legal position and the options available to him. The information before the Court, however, does not necessarily indicate that a brain scan is essential to ascertaining his current mental status.

The Court, therefore, **GRANTS** Masterson's motion for the appointment of a neuropsychologist **IN PART**. Masterson may secure the assistance of a qualified mental-health expert to evaluate him. If his expert opines that a brain scan is necessary, Masterson may file a motion seeking leave of the Court to proceed further. The Court otherwise **DENIES** Masterson's pending motions.

SIGNED at Houston, Texas this 23rd day of October, 2012.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge